

Remarks

The Office Action mailed 6 May 2003 has been received and reviewed. The pending claims are claims 1-49. Reconsideration and withdrawal of the rejections in view of the following comments are respectfully requested.

Allowable Subject Matter

Applicants thank the Examiner for notification to the effect that claims 21-49 are allowable, and that claims 6-8, 13, and 16-20 would be allowable if rewritten to include all limitations of the base claim and any intervening claims.

The 35 U.S.C. §102 Rejection

The Examiner rejected claims 1-5, 9-12, and 14-15 under 35 U.S.C. §102(b) as being anticipated by Sommervold (U.S. Patent No. 4,236,894). Applicants respectfully traverse this rejection.

For a claim to be anticipated under 35 U.S.C. § 102(e), each and every element of the claim must be found in a single prior art reference (M.P.E.P. § 2131). Applicants respectfully assert that Sommervold fails to teach each and every element of claims 1-5, 9-12, and 14-15.

Independent claims 1 and 9 both recite a “. . . retention structure (for the processing device) occupying a portion of the upper surface of the platform . . . ” While Sommervold teaches an automatic chemical testing apparatus including a sample source 1 (column 1, lines 4-11), there is no teaching, either in the text of the specification or in the figures, that any structure for retaining the sample source on the apparatus occupies “a portion of the upper surface of the platform.” Figure 1 of Sommervold does not disclose a structure for retaining the sample source 1 other than motor 24, intended for periodically indexing the sample source 1. Furthermore, Figure 2 indicates the motor 24 is attached to the sample source 1 by an axle extending from below the sample source 1 to the motor 24. It is neither taught nor suggested that motor 24, or any other part of the Sommervold apparatus, includes a retention

structure "occupying a portion of the upper surface of the platform." It is submitted that Sommervold fails to teach each and every aspect of Applicants' claims and, therefore, that claims 1 and 9, as well as claims 2-5, 11, 12, 14, and 15 dependent thereto, are not anticipated by Sommervold.

Reconsideration and withdrawal of the rejection is respectfully requested.

Comments on Statement of Reasons for Allowance

Applicants acknowledge the Examiner's statement of reasons the indicated subject matter is allowable. Applicants, however, respectfully point out that not all of the recited devices and methods necessarily include all features indicated by the Examiner.

The Examiner stated that "[t]he prior art of record does not disclose nor fairly suggest a device comprising a plurality of stationary fluid chambers further comprising filter material, complimentary registration structure on the platform and the processing device, the complimentary registration structure aligning the at least one process chamber at the location defined by the rectilinear array of the stationary fluid chambers when the processing device is stationary, or a processing device that is captive within the retention structure on the platform" (Office Action, page 3, lines 6-12). However, claim 13, for example, which was indicated as allowable if rewritten in independent form including all limitations of the base claim and intervening claims, does not recite an apparatus wherein fluid chambers include filter material. Additionally, none of claims 6-8, also indicated as allowable if rewritten in independent form, recite an apparatus including a complementary registration structure on the platform and the processing device, or that the processing device is captive within the retention structure on the platform.

Applicants further point out that not all features indicated by the Examiner in regard to the method of processing the sample material are necessarily recited in all of the allowable claims. The Examiner stated that "[t]he prior art also fails to teach or fairly suggest a method of processing sample material, the method comprising: providing a platform comprising

an upper surface and a lower surface, a plurality of stationary fluid chambers opening at the upper surface of the platform; providing a processing device in the retention structure proximate the upper surface of the platform, the processing device comprising a plurality of process chambers; providing sample material in a plurality of the plurality of process chambers on the processing device; delivering energy to the process chambers containing sample material to raise the temperature of the sample materials in the process chambers; and rotating the processing device about an axis of rotation within the retention structure while delivering energy, wherein the temperature of the sample materials in the processing chambers is controlled as the processing device rotates to process the sample materials” (Office Action, page 3, line 12 to page 4, line 1). However, claim 35, indicated as allowable, for example, recites “delivering energy to at least some of the plurality of process chambers,” not necessarily “delivering energy to (all) the process chambers.” Additionally, claim 35 does not specifically recite that energy is delivered to process chambers containing sample material to raise the temperature of the sample materials, as indicated by the Examiner (emphasis added). Claim 35 recites, “. . . delivering energy to at least some of the plurality of process chambers containing sample material while rotating the processing device to control the temperature of the sample materials in the process chambers, . . . ” (emphasis added).

Applicants respectfully submit that the above comments do not affect the allowability of the pending claims.

Prior Art Made of Record and Not Relied Upon

Applicants acknowledge the following documents cited by the Examiner:

U.S. Pat. No. 6,042,786, issued 03/28/00 to Oonuma et al.

U.S. Pat. No. 5,814,276, issued 2/2003 to Riggs

U.S. Pat. No. 5,698,450, issued 12/16/97 to Ringrose et al.

U.S. Pat. No. 5,679,309, issued 10/21/97 to Bell

U.S. Pat. No. 5,489,414, issued 02/06/96 to Schreiber et al.

Amendment and Response

Page 6 of 7

Serial No.: 09/677,805

Confirmation No.: 3624

Filed: 2 October 2000

For: SAMPLE PROCESSING APPARATUS, METHODS AND SYSTEMS

U.S. Pat. No. 5,425,918, issued 06/20/95 to Healey et al.

U.S. Pat. No. 5,077,013, issued 12/31/91 to Guigan

U.S. Pat. No. 5,071,625, issued 12/10/91 to Kelln et al.

U.S. Pat. No. 4,956,049, issued 10/23/90 to Lillig et al.

U.S. Pat. No. RE 31,150, reissued 02/15/83 to Ginsberg et al.

U.S. Pat. No. 4,346,056, issued 08/24/82 to Sakurada

U.S. Pat. No. 5,679,309, issued 04/27/82 to Bello et al.

U.S. Pat. No. 4,276,260, issued 06/30/81 to Drbal et al.

U.S. Patent Application No. US 2003/0044990, published 03/06/03, to Seto

U.S. Patent Application No. US 2003/0040177, published 02/27/03, to Devlin Sr.

U.S. Patent Application No. US 2003/0031599, published 02/13/03, to Brown

U.S. Patent Application No. US 2003/0026733, published 02/06/03, to LaCourt

U.S. Patent Application No. US 2003/0017613, published 01/23/03, to Jakubowicz

Amendment and Response

Serial No.: 09/677,805

Confirmation No.: 3624

Filed: 2 October 2000

For: SAMPLE PROCESSING APPARATUS, METHODS AND SYSTEMS

Page 7 of 7

Summary

It is respectfully submitted that the pending claims 1-49 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
William BEDINGHAM et al.

By
Muetting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
Phone: (612) 305-1220
Facsimile: (612) 305-1228

06 AUGUST 2003
Date

By: KW Raasch
Kevin W. Raasch
Reg. No. 35,651
Direct Dial (612)305-1218

CERTIFICATE UNDER 37 CFR §1.10:

"Express Mail" mailing label number: EV 073 686 284 US

Date of Deposit: August 6, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Sue Dombroske
Name: Sue Dombroske
